

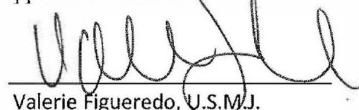
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December 27, 2023

Via ECF

Hon. Vernon S. Broderick, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Application Granted


Valerie Figueiredo, U.S.M.J.

DATED: January 10, 2024

The Clerk of Court is directed to terminate the motion at ECF No. 369.

Re: Motion for Extension of Time to Move for Substitution of Weijun Zhen
Wang et al v. Shun Lee Palace Restaurant Inc, et al., 17-cv-00840

Your Honor,

I represent the Plaintiffs in the above-referenced matter. I write respectfully to request an extension of sixty (60) days to move for the substitution of Plaintiff Weijun Zhen due to the continued pendency in the Queens County Surrogate's Court of a petition for administration of his estate. This would extend Plaintiffs' time to move from December 29, 2023, to February 27, 2024.

A suggestion of Weijun Zhen's death was filed on September 30, 2023. Accordingly, the time for any party to move for substitution of for Weijun Zhen is December 29, 2023, 90 days later. *See Fed. R. Civ. P. 25(a)(1)*.

We petitioned the Queens County Surrogate's Court for his wife, Xiao Xu Li, for letters of administration. However, as of this writing, the review and processing of Weijun Zhen's petition has not been completed. Plaintiffs filed their papers to the Surrogates Court on November 19, 2023, but the court has taken some time to process plaintiff's filing that they made. Further on December 12, 2023, the court issued a document asking for some extra documents that plaintiff's widow needs to obtain for them to continue. At the moment plaintiff's counsel and the widow of the deceased plaintiff are working to get those documents but plaintiff's widow still needs to collect some things. After they collect the items, plaintiff's counsel will file the documents the court requested and hopefully the court will not require any subsequent documents and grant the Letters of Administration

Plaintiff's request for extension of time is merely because they do not have the papers yet and have worked as fast as possible to receive the papers but have not been able to obtain the paperwork from the court necessary to draft their motion for substitution. A court may extend the deadline to file a motion to substitute if good cause is shown pursuant to Rule 6(b). Fed. R. Civ. P. 25(a)(1). Rule 6(b) "is a rule of general application giving discretion to the trial court to enlarge time limits whether before or after they have expired." *Kernisan v. City of New York*, 225 F.R.D. 422, 431 (E.D.N.Y. 2005) (citing *Wesolek v. Canadair Limited*, 838 F.2d 55, 58 (2d Cir. 1988) ("The granting or denial of a motion to extend time . . . lies within the discretion of the district court"). "Because this Court may exercise its discretion under Rule 6(b)(1) only for 'cause shown,' a party must demonstrate some justification for the issuance of the enlargement order." *Kernisan*,

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225 F.R.D. at 431. (*Gass v Target*, 2023 US Dist LEXIS 50595 [EDNY Mar. 24, 2023, No. 22-CV-01152 (ARR) (JMW)]).

The court should find that the plaintiff has shown sufficient cause as to why the extension should be requested. Plaintiff's counsel has tried to move as fast as possible in obtaining the Letters of Administration for plaintiff Weijun Zhen but the court has taken longer than usual to process plaintiffs request and has also requested for additional documents. As plaintiffs explained earlier, they filed their Letters right after the defendants filed their Suggestion of Death for the plaintiff and have been waiting on the court. It is only recently that the court has requested additional documents from the deceased family and plaintiff has been in contact with the deceased plaintiff wife for the additional documents. The ninety days under Rule 25 though have come to an end and plaintiff does not have the documents needed for the Motion to Substitute and as a result plaintiff's counsel need an extension to obtain the documents for their Motion to Substitute. The sixty days that plaintiff's request will give plaintiff's counsel time to file the remainder documents that the Surrogates Court requests and for the Surrogates Court to issue the Letters of Administration.

For the reasons stated above, plaintiff respectfully request for an extension of time of sixty (60) days to file their Motion for Substitution for plaintiff Weijun Zhen, meaning the new date to file the Motion for Substitution be extended from December 29, 2023 to February 27, 2024.

I thank the Court for its attention to and consideration of this matter.

Respectfully submitted,
TROY LAW, PLLC

/s/ John Troy
John Troy
Attorney for Plaintiffs

cc: via ECF
all counsel of record

JT/gd